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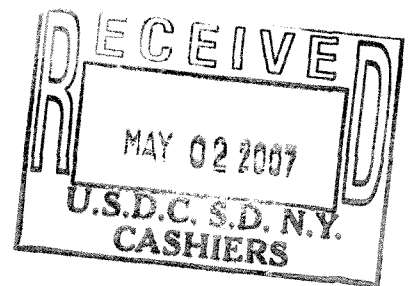
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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)  
BROADCAST MUSIC, INC.; )  
FRANKIE BEVERLY, an individual )  
d/b/a AMAZEMENT MUSIC; MIRAN )  
PUBLISHING, INC.; SONY/ATV )  
SONGS, LLC; BERNARD EDWARDS )  
COMPANY LLC d/b/a BERNARD'S )  
OTHER MUSIC; MICHAEL JONES, )  
an individual d/b/a KASHIF )  
MUSIC; HIP CITY MUSIC, INC.; )  
HIRIAM HICKS and ELLIOT )  
STRAITE, a partnership d/b/a )  
HIFROST PUBLISHING; SONGS OF )  
UNIVERSAL, INC.; EMI BLACKWOOD )  
MUSIC, INC.; PLEASE GIMME MY )  
PUBLISHING INC.; UNICHAPPELL )  
MUSIC, INC.; SONGS OF )  
UNIVERSAL, INC.; )  
)  
Plaintiffs, )  
)  
v. )  
)  
)  
229 RESTAURANT, INC. )  
d/b/a SHADOW NIGHTCLUB and )  
STEVEN JULIANO, individually, )  
)  
Defendants. )  
)  
-----X

JUDGE CROTTY

07 CV 3507  
CIVIL ACTION NO.:

COMPLAINT



Plaintiffs, by their attorneys, for their Complaint against  
Defendants, allege as follows (on knowledge as to Plaintiffs;  
otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 320 West 57th Street, New York, New York 10019. BMI has been granted the right to license the public performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Defendant 229 Restaurant, Inc. is a corporation organized and existing under the laws of the state of New York, which operates, maintains and controls an establishment known as Shadow Nightclub, located at 229 W 28<sup>th</sup> Street, New York, NY 10001, in

this district (the "Establishment").

6. In connection with the operation of this business, Defendant 229 Restaurant, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

7. Defendant 229 Restaurant, Inc. has a direct financial interest in the Establishment.

8. Defendant Steven Juliano is an officer of Defendant 229 Restaurant, Inc. with primary responsibility for the operation and management of that corporation and the Establishment.

9. Defendant Steven Juliano has the right and ability to supervise the activities of Defendant 229 Restaurant, Inc. and a direct financial interest in that corporation and the Establishment.

#### CLAIMS OF COPYRIGHT INFRINGEMENT

10. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 9.

11. Plaintiffs allege ten (10) claims of copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

12. Annexed as the Schedule and incorporated herein is a

list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the ten (10) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 noting the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration number(s); Line 7 showing the date(s) of infringement; and Line 8 identifying the location of the radio station(s) where the infringement occurred.

13. Each of the musical compositions identified on the Schedule, Line 2, were created by the persons named on Line 3 (all references to Lines are lines on the Schedule).

14. On or about the dates indicated on Line 5, the publishers named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the numbers listed on Line 6.

15. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the public performance rights in the musical compositions identified on Line 2. On the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright in the respective musical composition

listed on Line 2.

16. On the dates listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed at the Establishment without a license or permission to do so. Thus, Defendants have committed copyright infringement.

17. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) That Plaintiffs have such other and further relief as is just and equitable.

Dated: May 1, 2007

By: 

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Attorney for Plaintiffs

## *Schedule*

Line 1	Claim No.	1
Line 2	Musical Composition	Before I Let Go
Line 3	Writer(s)	Frankie Beverly
Line 4	Publisher Plaintiff(s)	Frankie Beverly, an individual d/b/a Amazement Music
Line 5	Date(s) of Registration	6/19/81
Line 6	Registration No(s).	PA 106-672
Line 7	Date(s) of Infringement	5/20/06                      9/28/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	2
Line 2	Musical Composition	Don't Stop a/k/a Don't Stop Till You Get Enough
Line 3	Writer(s)	Michael Joe Jackson
Line 4	Publisher Plaintiff(s)	Miran Publishing, Inc.
Line 5	Date(s) of Registration	6/18/79      8/11/80
Line 6	Registration No(s).	Pau 114-601 PAu 240-861
Line 7	Date(s) of Infringement	5/20/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	3
Line 2	Musical Composition	Good Times a/k/a Rappers' Delight
Line 3	Writer(s)	Nile Rodgers; Bernard Edwards
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; Bernard Edwards Company LLC d/b/a Bernard's Other Music
Line 5	Date(s) of Registration	6/27/79 6/16/81
Line 6	Registration No(s).	PA 37-207 PA 108-303
Line 7	Date(s) of Infringement	5/20/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	4
Line 2	Musical Composition	I Want Your Love
Line 3	Writer(s)	Nile Rodgers; Bernard Edwards
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; Bernard Edwards Company LLC d/b/a Bernard's Other Music
Line 5	Date(s) of Registration	10/30/78 11/8/78
Line 6	Registration No(s).	PAu 58-489 PA 55-928
Line 7	Date(s) of Infringement	5/20/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	5
Line 2	Musical Composition	Joy And Pain
Line 3	Writer(s)	Frankie Beverly
Line 4	Publisher Plaintiff(s)	Frankie Beverly d/b/a Amazement Music
Line 5	Date(s) of Registration	7/28/80
Line 6	Registration No(s).	PA 94-426
Line 7	Date(s) of Infringement	9/28/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	6
Line 2	Musical Composition	Love Come Down
Line 3	Writer(s)	Michael Jones a/k/a Kashif
Line 4	Publisher Plaintiff(s)	Michael Jones, an individual d/b/a Kashif Music; Songs of Universal, Inc.
Line 5	Date(s) of Registration	3/3/83                      3/1/83
Line 6	Registration No(s).	PA 168-032              PA 166-462
Line 7	Date(s) of Infringement	5/20/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	7
Line 2	Musical Composition	Poison
Line 3	Writer(s)	Elliot T. Straite
Line 4	Publisher Plaintiff(s)	Hip City Music Inc.; Hiram Hicks and Elliot Straite, a partnership d/b/a Hifrost Publishing
Line 5	Date(s) of Registration	8/14/89                      3/19/90 6/7/90
Line 6	Registration No(s).	PAu 1-264-846              PAu 1-410-225 PA 475-115
Line 7	Date(s) of Infringement	3/18/06                      5/19/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	8
Line 2	Musical Composition	We Are Family
Line 3	Writer(s)	Nile Rodgers; Bernard Edwards
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; Bernard Edwards Company LLC d/b/a Bernard's Other Music
Line 5	Date(s) of Registration	1/10/79              6/17/81
Line 6	Registration No(s).	PAu 76-307      PA 106-660
Line 7	Date(s) of Infringement	5/20/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	9
Line 2	Musical Composition	Goldigger a/k/a Gold Digger
Line 3	Writer(s)	Kanye Omari West; Ray Charles; Renalds Richard
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music Inc.; Please Gimme My Publishing Inc.; Unichappell Music, Inc.
Line 5	Date(s) of Registration	9/21/05
Line 6	Registration No(s).	PA 1-162-405
Line 7	Date(s) of Infringement	5/18/06
Line 8	Place of Infringement	Shadow Nightclub

Line 1	Claim No.	10
Line 2	Musical Composition	Children's Story
Line 3	Writer(s)	Ricky Walters
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.
Line 5	Date(s) of Registration	12/26/89
Line 6	Registration No(s).	PA 449-656
Line 7	Date(s) of Infringement	5/19/06
Line 8	Place of Infringement	Shadow Nightclub